

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 406 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?

4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

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VINODKUMAR GOPALRAM SHARMA

Versus

STATE OF GUJARAT

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Appearance:

MR CB DASTOOR for Petitioner  
MR MR RAVAL, APP, for Respondents

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CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 29/07/1999

ORAL JUDGEMENT

Heard Mr. Dastoor, learned advocate for the  
petitioner and Mr. Raval, learned Additional Public  
Prosecutor for the respondents.

Rule. Mr. Raval waives service of Rule on  
behalf of the respondents.

Mr. Dastoor has produced on record a certificate

from BAID Leasing and Final Company Limited as well as a declaration made by Om Prakash Choudhary, registered owner of the vehicle Ambassador Car No. RJ 14 2-C 6595 to the effect that they have no objection if the vehicle is released in favour of the present petitioner.

It is true that the vehicle, according to investigating agency, was involved in offence on 18th February, 1998, 23rd May, 1998, 14th July, 1998 and 30th July, 1998. But that was while the vehicle was not purchased by the present petitioner. The vehicle came to be purchased by the present petitioner only on 13th October, 1998. The learned Magistrate while passing the impugned order on 21st December, 1998 has observed that the vehicle is involved in an offence triable exclusively by Court of Sessions and, therefore, rejected the application. The said order was carried in revision before Sessions Court and while deciding Criminal Revision Application No.9 of 1999, the learned Additional City Sessions Judge, Court No.18 rejected the revision application by order dated 22nd April, 1999, observing that the applicant, i.e. the present petitioner, shall be at liberty to move to move for interim custody of the vehicle on completion of the investigation of the offence of the four crimes registered and that shall be decided on basis of prevailing circumstances of facts and facts and law then. It transpires from order passed by the learned Magistrate that the investigating agency had given a report of having no objection if the vehicle is handed over to the petitioner upon certain conditions.

It appears that the vehicle is purchased by the petitioner, possibly unaware of the previous involvement of the vehicle in offences. The investigating agency does not require the vehicle in question. However, since the trial in those cases are yet to commence, it would not be expedient to unconditionally hand over the vehicle to the petitioner. Certain conditions are required to be imposed so as to ensure the availability of the vehicle at the time of the trial and, hence, the following order:-

On petitioner furnishing a bond to the tune of Rs.75,000/- and a solvent surety of that amount, the interim custody of the vehicle is handed over to the petitioner on following conditions:-

- (i) the petitioner shall keep the vehicle in good condition;
- (ii) the petitioner shall not sell or transfer the

vehicle in any manner without permission of the Trial Court;

(iii) the petitioner shall ensure that the vehicle does not get involved in any illegal activity; and

(iv) the petitioner shall produce the vehicle either before the investigating agency or before the Court whenever he is asked so to do.

Rule is made absolute accordingly. Direct service permitted.

[ A.L. DAVE, J. ]

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